

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

L. LIN WOOD, JR.,

Plaintiff,

v.

**BRAD RAFFENSPERGER, in his official)
capacity as Secretary of State of the State)
of Georgia, REBECCA N. SULLIVAN,)
in her official capacity as Vice Chair of)
the Georgia State Election Board,)
DAVID J. WORLEY, in his official)
capacity as a Member of the Georgia)
State Election Board, MATTHEW)
MASHBURN, in his official capacity as)
a Member of the Georgia State Election)
Board, and ANH LE, in her official)
capacity as a Member of the Georgia)
State Election Board,)**

Defendants.

**CIVIL ACTION FILE NO.
1:20-cv-04651-SDG**

**AFFIDAVIT OF NICHOLAS J. ZEHER IN SUPPORT OF
PLAINTIFFS' MOTION FOR TEMPORARY RESTRAINING ORDER**

I, Nicholas J. Zeher, declare under penalty of perjury that the following is true and correct:

1. I am over the age of 18 years and competent to testify herein. I have personal knowledge of the matters stated herein.

2. I am an attorney licensed to practice law in the state of Florida.
3. On Sunday November 15, 2020 Alyssa Specht appointed me to serve as a Monitor for the duration of the Risk Limiting Audit in DeKalb County (the “DeKalb Appointment Letter”). A true and accurate copy of the appointment letter is attached to this Affidavit as **Exhibit “A.”**
4. On Sunday at around 12:30 p.m., I showed up to 2994 Turner Hill Road, Stonecrest, Georgia 30038 to begin observing as a Monitor. Prior to my arrival, I was sent a handout titled “Audit/Recount Monitor and Vote Review Panel Handout” which outlined the rules in place as well as provided guidelines for observation. A true and accurate copy of the Audit/Recount Monitor and Vote Review Panel Handout is attached to this Affidavit as **Exhibit “B.”**
5. After signing in and providing the DeKalb appointment letter to the check-in desk, I was permitted to roam throughout the facility to conduct observations.
6. The first thing I noticed was signs taped to each table (the “Review Table” or “Review Tables”) indicated a place for ballots for Trump, Biden, and Jorgenson and other signs for “Blanks” (no vote for President) or overvotes (multiple votes for President). At each Review Table were two people

manually reviewing each ballot (the "Recounter"). The first Recounter would pick up the ballot and orally announce which candidate the ballot was cast for. The first Recounter would then pass the ballot to the second Recounter who would again orally announce which candidate the ballot was cast for. The ballot was subsequently placed in the pile designated for that candidate as discussed above.

7. Due to the COVID restrictions, we were instructed to stay a minimum of six feet away from any Recounter sitting at one of the Review Tables.
8. The ballots would be brought to the Review Table in a cardboard box by another worker. I was never able to get close enough to read any writing on any of the cardboard boxes. After the cardboard box was opened, stacks of ballots were removed and placed on the Review Table. There were notes on each stack but again, I was never able to get close enough to read what was written.
9. Once the stack of ballots was on the Review Table, the process of reviewing the ballot began in the manner outlined above in paragraph 6.
10. At no time did I witness any Recounter or any individual participating in the recount verifying signatures.

11. If one of the Recounters encountered a ballot that was questionable, he or she raised a piece of paper with a “?” and what seemed to be a supervisor would come to that Review Table. A short conversation was had and the supervisor would provide the Recounters with instructions. Again, I was never able to get close enough to hear what was said.
12. When a Review Table completed reviewing a cardboard box full of ballots, one of the Recounters would write some information (I assume it was the number of ballots for each candidate the box contained) on a piece of paper and place it on top of the cardboard box. Then one of the Recounters would hold a piece of paper with a “√” (check mark) on it in the air and someone would come pick up the box full of ballots.
13. There was no person verifying the number of votes that the Recounter would write on the paper.
14. At one point, I was able to get close enough to a Review Table to see the ballots and the markings on them. It was strange—there were many ballots where just Joseph Biden was filled in and no other candidate whatsoever.
15. At another table, I watched the Recounters pull out a stack of ballots that appeared to be strange too. The bubble filled out for Joseph Biden looked to be a perfect black mark.

16. I spoke to other Observers present that day and they had witnessed the same thing. Other Observers also informed me that fellow Observers were removed for getting too close to the Review Tables. That when they would get close enough to see what was actually filled in on the ballot, one of the Recounters would begin making a big scene and call over a supervisor. The supervisor would then remove the Monitor permanently.
17. While in DeKalb County, I saw a lot of hostility towards Republicans and none towards Democrats.
18. On the evening of November 15, 2020, Alyssa Specht appointed me as an Monitor in Henry County for the whole duration of the Risk Limiting Audit ("Henry County Appointment Letter"). A true and accurate copy of the Henry County Appointment Letter is attached to this Affidavit as **Exhibit** "C."
19. I arrived at 562 Industrial Boulevard, McDonough, Georgia 30253 at around 9:30 a.m.
20. When I entered the building, I was halted by a woman at the door who immediately informed me that I was not needed and that all the position had been filled. At this time, the woman neither asked who I was nor why I was present. I asked this woman to speak to the person in charge.

21. Within a few seconds, I was greeted by Ameika Pitts (“Ms. Pitts”), Henry County’s Elections Director. Ms. Pitts informed me that my assistance was not needed, and I was free to go. Again, this was told to me prior to her asked why I was there and who I was.
22. I then pulled the Henry County Appointment Letter up on my phone and presented it to her. Ms. Pitts immediately told me that I was not able to have my phone inside the building even though the recount was allegedly being “live streamed.” After a brief conversation, I send Ms. Pitts a copy of the letter and was permitted to enter the building, but only in the public observation area.
23. Fortunately, after speaking to several Republican Party volunteers, Ms. Pitts was provided my name from the Henry County Republican Chairwoman and I was permitted to enter into the observation area.
24. Once inside the observation area, I saw that it was set up very similar to DeKalb County with the Review Tables having the same designations and each Review table having two Recounters as described in paragraph 6 above.
25. As I began walking around, I noticed several differences between DeKalb County and Henry County. In Henry County, the ballots were brought to each Review Table in a red, plastic box with security ties used to hold the

box closed. Those ties were cut, and the ballots were then removed and placed on top of the Review Table in stacks that were wrapped in a rubber bands and had a pink sticky note on each stack which displayed the number of ballots each stack contained. The Recounter would then remove the rubber band and sticky note and begin counting the same was described in paragraph 6 above.

26. At around 12:05 p.m. I was observing table "G" when the two recount workers sorted a pile of ballots that had a note which said "93" as the number of ballots. When the two workers finished sorting and counting the ballots, there were only 92. The director of the election committee, Ms. Pitts came to the two workers and simply signed a separate sheet of paper saying that there were only 92 ballots. Ms. Pitts never recounted to make sure. This happened several times and Ms. Pitts informed us that she has been directed to just sign off on the number of ballots the recount worker said was there.

27. While in Henry County, I personally witnessed ballots cast for Donald Trump being placed in the pile for Joseph Biden. I witnessed this happen at table "A."

28. I interviewed a few Observers that same day who informed me that on multiple occasions, Recounters at tables "A," "B," "G," and "O" were seen

placing ballots cast for Donald Trump placed in the pile for Joseph Biden.

When this was brought to Ms. Pitts attention, it was met with extreme hostility. At no time did I witness any ballot cast for Joseph Biden be placed in the pile for Donald Trump.

29. Based on my personal observations, I believe that additional absentee ballots were cast for Donald Trump but counted for Joseph Biden. I further believe that there was widespread fraud favoring Joseph Biden. This is my personal experience.

[SIGNATURE AND OATH ON NEXT PAGE]

I declare under penalty of perjury that the foregoing statements are true and correct



Nicholas J. Zeher

STATE OF FLORIDA

COUNTY OF PALM BEACH

Nicholas Zeher, appeared before me, a Notary Public in and for the above jurisdiction, this 17th day of November 2020, and after being duly sworn, made this Declaration, under oath.

[Affix Seal]


Notary Public

My Commission Expires _____

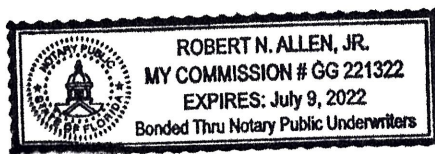


Exhibit A



November 15, 2020

Monitor Designee – Risk Limiting Audit

To Whom it May Concern:

This letter serves as proper notice, pursuant to O.C.G.A. § 21-2-408, § O.C.G.A. 21-2-483, State Election Board Rule 183-1-13-.06, and/or State Election Board Rule 183-1-14-0.9-.15. The listed designees are to serve as a Monitor for the whole duration of the Risk Limiting Audit in DeKalb County:

- William McElligott
- Oleg Otten
- Kevin Peterford
- Nicholas Zeher
- Scott Strauss
- Michael Sasso

A handwritten signature in black ink, appearing to read "D. Shafer".

David J. Shafer
Chairman

A handwritten signature in black ink, appearing to read "Michael Welsh".

Michael Welsh
Secretary

Exhibit B

Audit/Recount Monitor and Vote Review Panel Handout

Audit Observer Handout

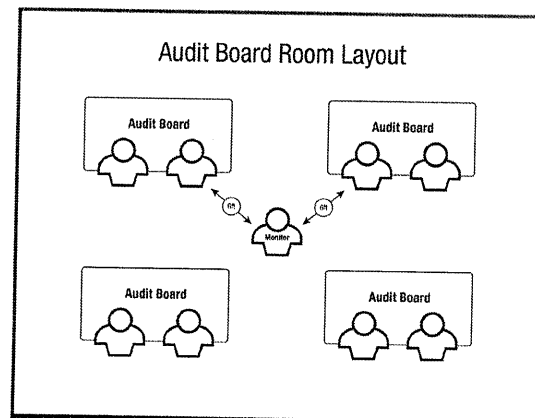
Arrival:

- Arrive 30 minutes prior to the start of your shift.
- The public is to watch the opening procedures before the audit begins and after the audit ends for the day.
- Be respectful and professional, not adversarial.

Audit Observers/Designated Monitors:

- Each political party may have one designated monitor per 10 Audit Teams or a minimum of two designated monitors per room.
- Designated monitors may roam the audit room and observe the audit process
- Observe the Check-in and Check-out process of the ballots
- Must wear badges that identify them by name.
- Are allowed to observe but may not obstruct orderly conduct of election.
- May not speak to or otherwise interact with election workers.
- Are not allowed to wear campaign buttons, shirts, hats or other campaign items.
- Do not touch any ballot or ballot container
- Observe and ensure the room is properly set-up, the Audit Teams are completing their tasks, and the Table is set up properly (see below).
- **Must pose questions regarding procedures to the clerk/election worker for resolution.**

Room Set up



Audit Teams Responsibilities

When reviewing a ballot and determining the voter's mark, audit boards must consider "if the elector has marked his or her ballot in such a manner that he or she has indicated clearly and without question the candidate for whom he or she desires to cast his or her vote." O.C.G.A. 21-2-438(c).

As a batch is delivered from the check-in/out station:

- Record the County Name, Batch Name, and Batch Type (Absentee, Advanced Voting, Provisional, Election Day), and verify the container was sealed on the Audit Board Batch Sheet.

- Unseal the container.
- Recount the Ballots using the "Sort and Stack" method:
 - Pull the ballots out of the container and stack neatly on the table.
 - If the container contains more than 1000 ballots, ballots should be removed from the container and sorted in manageable stacks (using an Audit Board Batch Sheet for each stack), leaving the rest of the ballots in the container until the previous stack is done.
 - For each ballot: audit board member (ABM) #1 picks up a single ballot from the stack and reads the vote for the Presidential contest aloud, then hands the ballot to ABM #2. ABM #2 verifies the vote that is on the ballot is indeed what ABM #1 read, then places the ballot in the "stack" that corresponds to the vote. ABM #1 should watch to make sure the ballot is placed in the right stack. There will be 8 stacks as follows:
 - Trump
 - Biden
 - Jorgensen
 - Overvoted ballots - one pile for any ballot where the voter made more than one selection for President.
 - Blank/Undervoted ballots - one pile for any ballot where the voter made no selection for President.
 - Write-In - one pile for any ballot containing a write-in vote for President. (The board does *NOT* need to determine whether the write-in is for a qualified candidate: the Vote Review Panel does that.)
 - Duplicated ballots - one pile for ballots marked as duplicated.
 - Undetermined - one pile for any ballot where the audit board cannot agree on the voter's intent.
 - Candidate Ballot Tallies – Count the ballots in each stack by having one member of the audit board verbally count the ballot while handing it to the other member for verification. Count the ballots in groups of 10, stacking the groups at right angles to each other, so you can easily count the complete groups when you are done. (For instance, if you have seven groups of 10 ballots each plus an extra 3 ballots, the total tally would be 73.) Record the total tally for each candidate on the Audit Board Batch Sheet.
 - Write-In, Duplicated, and Undetermined Ballots - count the ballots in the write-in duplicated, and undetermined ballot piles and record on the Audit Board Batch Sheet. Each type should go in a designated folder or envelope by batch.
 - Write-in, Duplicated, and Undetermined ballot folders must be set aside for delivery to the Vote Review Panel.
 - Return the other ballots to the original container and seal the container.
 - Sign the Audit Board Batch Sheet.
 - Raise your check mark sign for the check-in/out station to come retrieve your container, batch sheet, and any ballots for the Vote Review Panel.

Audit Board Batch Sheet

County _____

Batch Name _____

Batch Type: ☐ Absentee ☐ Advance ☐ Election Day ☐ Provisional ☐ Other

Was the container sealed when received by the audit board? ☐ Yes

Candidates	Enter Audit Totals
Donald J. Trump	
Joseph R. Biden	
Jo Jorgenson	
Overvote	
Blank/Undervote	

Ballots sent to the Vote Review Panel (if any)

Write-In	
Duplicated	
Undetermined	

When work is completed, return all ballots (except Vote Review Panel ballots) to the ballot container and seal container.

Was the container resealed by the audit board? ☐ Yes

X _____ X
 (Audit Board Member) (Audit Board Member)

Check In/Out Station

☐ Recorded batch return on Ballot Container Inventory Sheet

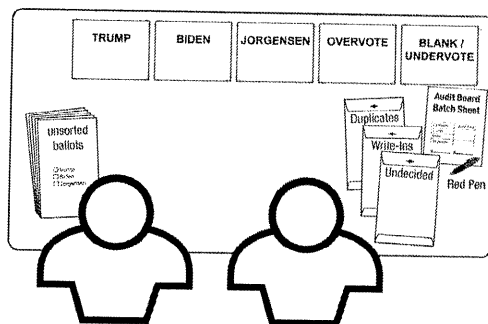
☐ Delivered Vote Review Panel ballots (if any)

☐ Entered tallies into Arlo

_____ Initials of check in/out station member

Table Set up

Audit Board Table Top Organization



No Photography is allowed in the observation area.

Check-in/out Process

- Two election workers are required to observe the check in and check out process of ballots to ensure there is a secure chain of custody and inventory of ballots is kept proper.
 - One person is to be kept with the ballot containers
 - One person delivers the containers to and from the audit boards ("runner")
- There should be at least one "runner" for every 5 audit boards
- When a new container arrives, the election works must record:

- batch name
 - audit board number
- Upon completion, the election worker must:
 - Verify proper completion of the *Audit Board Batch Sheet*
 - Ensure contain is resealed
 - Return the container and batch sheet to the check-in/out station
 - Note the return of the container of the Ballot Container Inventory Sheet
 - Deliver any necessary ballots/envelopes to the Vote Review Panel
 - Duplicates, write-ins, and undermined
 - Enter candidate totals for the batch in Arlo, mark as “entered”

Closing of Audit Room:

- All eligible monitors are able to observe the closing and conclusion of the audit.

Monitor Observes Issue...What to Do?

1. Respectfully raise issue with precinct clerk for resolution.
2. Do NOT speak to or interact with election workers.
3. Do NOT take pictures or videos.
4. If unresolved, leave polling room and call GOP GA Legal Hotline with your name, county, and location.

Be on the lookout for:

1. Lapses in procedure
2. Food or beverage on audit tables (it should be under the table)
3. Any ballots not being delivered from the runners in the regular course

Statewide Observer and VRP member Hotline: 470-410-8762

Incident Report Form (attached) and at: <https://gagop.org/auditreport/>

The Vote Review Panel

Vote Review Panel (VRP) Member:

- Each political party must have 1 member per VRP
- You must object when you cannot agree
 - If there is a disagreement between the two VRP members, the Superintendent or their designee breaks the tie.
- Manually log each ballot that should be adjudicated
- Must wear badges that identify them by name.
- May not speak to or otherwise interact with election workers.
- Are not allowed to wear campaign buttons, shirts, hats or other campaign items.
- **Must pose questions regarding procedures to the clerk/election worker for resolution.**

Three types of Ballots:

- **Duplicated Ballots**
 - Retrieve the original ballot and compare the duplicated ballot to ensure proper duplication. Using the original ballot, record the vote tally for the duplicated ballots using the Vote Review Panel Tally Sheet.
- **Undetermined Ballots**
 - Review the undetermined ballots where the audit board could not agree on the voter's intent to make a determination. Record the vote tally for the undetermined ballots using the Vote Review Panel Tally Sheet.
- **Write-In Ballots**
 - Review the write-in ballots to determine if a voter has voted for a qualified or invalid write-in candidate. Record the number of votes for each qualified write-in candidate on the Qualified Write-In Candidate Tally Sheet.

[illegible]

Common Adjudication Scenarios

Common Adjudication Scenarios

OVERVOTES

With corrections from voters

County / Condado / 郡
Supervisor, District 1
Supervisor, Distrito 1
第一區主席

Vote for One
投票給一位

✓ Alfred Hitchcock
For District
第一區主席

✗ Vincent Price
For District
第一區主席

County / Condado / 郡
Supervisor, District 1
Supervisor, Distrito 1
第一區主席

Vote for One
投票給一位

✓ Alfred Hitchcock
For District
第一區主席

✗ Vincent Price
For District
第一區主席

HESITATION MARKS

County / Condado / 郡
Supervisor, District 1
Supervisor, Distrito 1
第一區主席

Vote for One
投票給一位

✓ Alfred Hitchcock
For District
第一區主席

✗ Vincent Price
For District
第一區主席

MARKING ERRORS

Consistent patterns

County / Condado / 郡
Supervisor, District 1
Supervisor, Distrito 1
第一區主席

Vote for One
投票給一位

✓ Alfred Hitchcock
For District
第一區主席

✗ Vincent Price
For District
第一區主席

Inconsistent patterns

County / Condado / 郡
Supervisor, District 1
Supervisor, Distrito 1
第一區主席

Vote for One
投票給一位

✓ Alfred Hitchcock
For District
第一區主席

✗ Vincent Price
For District
第一區主席

STRAY MARKS IN TARGET AREAS

County / Condado / 郡
Supervisor, District 1
Supervisor, Distrito 1
第一區主席

Vote for One
投票給一位

✓ Alfred Hitchcock
For District
第一區主席

✗ Vincent Price
For District
第一區主席

Exhibit C



November 15, 2020

Monitor Designee – Risk Limiting Audit

To Whom it May Concern:

This letter serves as proper notice, pursuant to O.C.G.A. § 21-2-408, § O.C.G.A. 21-2-483, State Election Board Rule 183-1-13-.06, and/or State Election Board Rule 183-1-14-0.9-.15. The listed designees are to serve as a Monitor for the whole duration of the Risk Limiting Audit in Henry County:

- William McElligott
- Oleg Otten
- Kevin Peterford
- Nicholas Zeher
- Ibrahim Reyes-Gandara
- Juan Carlos Elso
- Carlos Silva
- Mayra Romera

A handwritten signature in black ink, appearing to read "David J. Shafer".

David J. Shafer
Chairman

A handwritten signature in black ink, appearing to read "Michael Welsh".

Michael Welsh
Secretary